

**FACT Review Request – Notification of Procedure**

TO: Leon County, Attn: Thomas M. Findley, Esq.
FROM: FRSC, Scott W. Lage
DATE: April 19, 2005
RE: Claims Committee Coverage Review and Denial

Enclosed is documentation memorializing the FACT Claims Committee decision in support of denial of coverage for Douglas Glenn Billingsley defense obligations under Claim No. FAC2202ML-66-1. A unanimous (three) FACT Claims Committee voted to uphold the FRSC denial of coverage.

Any decision of the Claims Committee may be appealed to the FACT Board of Trustees. However, such appeal must be:

- a. Made, in writing, at the specific direction of the Board of County Commissioners of the Member County,
- b. Mailed to the Chair of the FACT Board by certified mail postmarked within 30 days of receipt of the notice of decision from the Claims Committee:

Ms. Linda Myers (FACT Chair)
Putnam County Commissioner
514 St. John's Ave., PO Box 758
Palatka, FL 32178
Voice 904-329-0212; FAX 904-329-1216

If no request for review of the denial of coverage is made in accordance with the above procedure, the Member shall be deemed to have consented to the denial of coverage, the FACT Board shall be deemed to have confirmed the denial of coverage, and no further review of the denial of coverage will be undertaken by the FACT Board.

Procedure for Notification and Review of Coverage Denials

1. **Notice of Review Process--Time of Request for Review--Effect of Failure to Request Review.** All formal denials of coverage under the FACT program shall include a notification, approved in form by the FACT Board, of the availability of a review procedure and the action necessary to request such a review. The request for review of denial of coverage must be made by certified mail to the FACT claims service provider within 15 days after the date of receipt of the denial of coverage by the Member. A review of any denial of coverage shall be made only if the Member requests, in writing, such review. If no review of the denial of coverage is requested within the 15 day period, the Member shall be deemed to have consented to the denial of coverage, the FACT Board shall be deemed to have confirmed the denial of coverage, and no further review of the denial of coverage will be undertaken by the FACT Board or the Claims Committee.
2. **Claims Committee as Reviewing Body - FACT Board may Act in Lieu.** Coverage denial reviews shall be made by the Claims Committee acting for and on behalf of the FACT Board. Upon request of the Claims Committee, the FACT Board shall act as the reviewer of any coverage denial in lieu of the Claims Committee. By resolution approved by a majority of the FACT Board prior to any final coverage denial review decision of the Claims Committee, the FACT Board may elect to act as the reviewer of any coverage denial in lieu of the Claims Committee.
3. **Conflict of Interest.** A potential conflict of interest shall be deemed to exist with respect to any Trustee who is an official or employee of a Member whose coverage denial is being reviewed. No FACT Board member with a potential conflict of interest may participate in or be present during any Claims Committee or FACT Board coverage denial review process or meeting nor may that Board member vote on any FACT Board or Committee decision to confirm or reverse any coverage denial.
4. **Response to Review Request.** Upon receipt of a member's written request for review of a coverage denial, the Claims Committee shall acknowledge receipt of the request and shall advise the Member of its intended course of action.
5. **Review Procedure.** The Claims Committee (or FACT Board, as the case may be) shall, from the information available, determine the procedure for review. The review may consist of any or all of the following:
 - a. **Input from FACT claims service provider.** The Claims Committee or individual Claims Committee members may request and accept information and arguments from FACT's claims service provider, including written, telephone and/or personal review and discussion between one or more Claims Committee members and FACT's claims service provider. Additionally, the Claims Committee may request the claims service provider to appear at one or more meetings of the Claims Committee. The Claims Committee may accept such information as it deems relevant to its review.

- b. **Input from FACT Member.** The FACT Member requesting review shall, as a condition precedent to the Claim Committee's review of a claim denial, present the Claims Committee with a written summary of the basis of its appeal. The written summary shall be in sufficient detail to present the specific reason(s) the Member feels the coverage denial was incorrect. No review shall proceed until such a written summary is provided. Failure to provide such a summary within 30 days of the initial request for review will be deemed a voluntary withdrawal of the review request. The Claims Committee shall accept such other information as it deems relevant to its review and shall, at its discretion as to format, provide a reasonable opportunity for the Member to present oral testimony.
 - c. **Input from Claims Committee or FACT Board Retained Advisors.** The Claims Committee may seek information or input from FACT Board Counsel and/or others the Claims Committee deems potentially useful to it in reviewing the denial of coverage. The Claims Committee may accept such information as it deems relevant to its review.
 - d. **Consultation with Reinsurer.** The Claims Committee shall, prior to making a decision on a review of a coverage denial, which decision is likely to directly affect a FACT reinsurer, consult with, or otherwise consider the position of, FACT's reinsurer(s).
 - e. **Meetings of the Claims Committee--other Discussions.** The Claims Committee or the FACT Board may meet from time to time to obtain or review information and/or to deliberate on the review of denial of coverage. Such meetings may be by telephone or other communications devices or in person. Nothing herein shall preclude any Claims Committee member from contacting any other Claims Committee member, any other FACT Board Member or anyone else to discuss any part or aspect of the claim with respect to which the coverage has been denied, or any other part or aspect of the coverage denial.
 - f. **Basis of Decision.** Each decision on denial of coverage shall be based on the facts of the claim and the applicable FACT coverage document provisions, including, without implied limitation, the underwriting intent of FACT in utilizing the provisions in question.
6. **Meetings of Claims Committee or FACT Board Closed.** Because of the legally sensitive nature of the questions and information discussed therein, meetings of the Claims Committee or the FACT Board for the purpose of reviewing denials of coverage shall be closed meetings. Only those individuals invited to attend such meetings shall be allowed into such meetings, and they shall be allowed into the meetings only at such time or times during such meetings as the Claims Committee or the FACT Board (as the case may be) shall deem appropriate.

7. **Decisions--Majority Plus One Required--Notification of Decision.** The Claims Committee or FACT Board, as the case may be, shall, within 30 days after it has received all information requested by it and has met to consider such information, arrive at and record its decision. Such decision may be made at a special or regular meeting or by written consent resolution (which may be executed in person or through the utilization of facsimile or other communication devices). Any Claims Committee or FACT Board member with a potential conflict of interest as described in paragraph 3, above, shall not execute, nor shall his or her signature be required on, any such consent resolution. Such decision may confirm or reverse the original coverage denial determination of the claims service provider or may determine that additional procedures are necessary to make a final decision. Any decision for reversal of a previous finding by the claims service provider shall require a vote of a majority plus one of the Committee Members present and voting, or in the case of a vote by consent resolution, the Committee Members eligible to vote on the issue. The notification of decision shall be sent, by certified mail, to the Member requesting the review with a copy to the FACT claims service provider and to the FACT Board Chairman.

8. **Decision Appealable--Request for Review.** Any decision of the Claims Committee for review of a coverage denial may be appealed to the FACT Board of Trustees. However, such appeal must be:

- a. Made, in writing, at the specific direction of the Board of County Commissioners of the Member County,
- b. Mailed to the Chairman of the FACT Board by certified mail postmarked within 30 days of receipt of the notice of decision from the Claims Committee.

If no request for review of the denial of coverage is made in accordance with the above procedure, the Member shall be deemed to have consented to the denial of coverage, the FACT Board shall be deemed to have confirmed the denial of coverage, and no further review of the denial of coverage will be undertaken by the FACT Board.

9. **FACT Board Decision--Decision Final--No Precedent.** The FACT Board shall, as closely as possible, base its review upon the procedures set forth above for the Claims Committee, but shall not be required to call a special meeting of the Board to review a coverage decision. Responsibility for coordination of the FACT Board review process shall remain with the Claims Committee. The decision of the FACT Board on any review of a coverage denial decision, whether a review of the decision of the FACT claims service provider or of the Claims Committee, shall be final and unappealable. No decision on a denial of coverage shall be precedent for later decisions.

10. **Sole Right to Interpret or Amend Procedure** The FACT Board shall have the sole right to interpret and apply this coverage review procedure to individual coverage review requests or to amend this coverage review procedure at any time.